

Utah Solid and Hazardous Waste Control Board
MEETING MINUTES
February 14, 2008

Board Members Present: Carlton Christensen (Chair), John Newman (Vice Chair), Michael Brehm, Scott Bruce, Craig Forster, Gary Mossor, Kevin Murray, Craig Anderson, Ryan Dupont.

Board Members Excused: Dennis Riding, Jeff Coombs, Rick Sprott, Kory Coleman.

Staff Members Present: Dennis Downs, Brad Johnson, Scott Anderson, Ralph Bohn, Marty Gray, Laura Lockhart, Rusty Lundberg, Dale Marx, Allan Moore, Jon Parry, Mike Pecorelli, Don Verbica, Otis Willoughby, Raymond Wixom.

Others Present: Kathryn Steffey, Mike Moffit, Dave Rickers, Clark Nielsen, Ryan Merkley, Drew Paraddke, Dean Armstrong, Lucy Jenkins, Tim Orton, L. Scott Williams, Steve Christiansen.

I. Call to Order

Carlton Christensen (Chair) called the meeting to order at 1:01 p.m. Dennis Riding, Jeff Coombs, Kory Coleman, and Rick Sprott were excused from the meeting.

II. Approval of Meeting Minutes for the January 10, 2008, Board Meeting (Board Action Item)

John Newman moved to approve the January 10, 2008 Board meeting minutes. The motion was seconded by Craig Anderson and UNANIMOUSLY CARRIED.

III. Underground Storage Tanks Update

A. Gunnison Top-Stop Update

Brad Johnson provided the Board members with an update on the cleanup activities taking place with the Gunnison Top-Stop facility. Top-Stop has submitted a revised site investigation report to the Division of Environmental Response and Remediation (Division) and it appears that the extent of the contamination has been quantified. In conjunction with their consultant, Wasatch Environmental, Top-Stop is also continuing to work on installing soil vapor extraction systems throughout the plume area. It is anticipated that within the next week the Division will require Top-Stop to submit a Corrective Action Plan within 30 days. The plan will probably propose enhancement of the existing corrective action already taking place at the site. At this time, it is estimated that 5,500 to 6,000 gallons of fuel out of the 20,000 gallon release have been removed from the ground, with 50 to 60 gallons being removed per day. Also at this time, one family has still not been able to return to their home because of vapors that are present. Top-Stop is continuing to work with this family to resolve the vapor issue in order for them to return home. The expenditures currently spent to date on claims against the Petroleum Storage Tank Fund for this site have reached approximately \$933,000.00, which leaves \$67,000.00 left before the coverage limit of the Fund is reached. Top-Stop has verbally committed to ensuring that the site will be remediated even after the Fund coverage has been depleted.

B. UST Legislation Update

Mr. Johnson then provided the Board with an update on four Legislative Bills. House Bill (HB) 50 sponsored by Representative Sylvia Anderson, deals with the Underground Storage Tank (UST) Amendments that change references in Utah statutes to the Solid Waste Disposal Act instead of the Resource Conservation and Recovery Act. This Bill has passed through the House of Representatives and is now on the second reading calendar for the Senate. It is anticipated that this Bill will pass through the Legislature with no objections.

HB 79 sponsored by Representative David Clark and Senator Curtis Bramble, discusses the Sunset of the UST Statute. The Bill has passed both bodies of the Legislature and will reauthorize the statute for another ten years.

HB 230, which is sponsored by Representative Chris Herrod, requires that a company cleaning up a site with methamphetamine contamination cannot be the same company that inspects the site to establish that it has been cleaned to acceptable levels. The Utah Department of Health and Local Health Departments have expressed concerns regarding this Bill and as such, it is hoped that this issue could be reviewed further before changing the statute. It is unknown what Representative Herrod will do with the Bill at this point.

Senate Bill 209 sponsored by Senator D. Chris Butters, discusses establishing cleanup standards for sites where methamphetamine is used and not just on sites where it is manufactured. This Bill has not been approved by either of the Legislative Bodies and will be assigned to a standing committee within the next few days.

IV. Gold Cross Ambulance – Corrective Action Plan Appeal (UST), Petition to Intervene/Notice of Further Proceeding (Board Action Item)

After reviewing the proper procedures and protocol on how to handle requests for intervention by the Board, Raymond Wixom, Utah Attorney General's Office, presented the Board members with a request that was received from attorneys for certain individuals who are petitioning the Board to intervene in a proceeding in the UST Program.

On December 17, 2007, the Executive Secretary (UST) conditionally approved a Corrective Action Plan for property that at one time had been leased by Gold Cross Ambulance. Certain individuals with interest in the subject property have expressed concerns regarding this approval and would like to challenge the Executive Secretary's (UST) decision. The Board has received a request to intervene from the interested parties and is asking that they be allowed to come before the Board in order for the Board to consider their request for agency action.

Michael Brehm inquired if this was the first opportunity for the petitioners to have input on the remedial action decision making process. Michael Pecorelli, the State Project Manager for the site, explained that the petitioners have had different chances to comment on the Corrective Action Plan prior to its approval. This included the public comment period when the initial Corrective Action Plan was proposed by Gold Cross Ambulance, in which the petitioners did respond. Those concerns were responded to by the Executive Secretary (UST) in the Conditional Approval of the Corrective Action Plan.

Carlton Christensen asked that if the Board were to deny the petitioners request, what would be their next step in appeal to the Executive Secretary's (UST) decision. Mr. Wixom stated that if the Board were to deny the request, the petitioner's next step of appeal would have to be to the Utah Court of Appeals.

It was motioned by John Newman and seconded by Craig Anderson, and UNANIMOUSLY CARRIED that the Notification of Further Proceedings be approved, that the Board Chair be appointed as the Presiding Officer in order to sign the Notification of Further Proceedings as it has been presented to the Board, and that the Board hear the Formal Proceeding Hearing as a whole.

V. Final Adoption: Repeal of R305-3, Emergency Meeting Rule (Board Action Item)

Laura Lockhart, attorney from the Attorney General's Office, reviewed the information regarding the repeal of R305-3, Emergency Meeting Rule. A review of R305-3 has raised questions about the continuing need for the

rule. Rulemaking to repeal the rule was initiated, following approval by each board, on December 15, 2007. The comment period closed on January 14, 2008, and no comments were received.

The Executive Secretary, after considering legal advice, recommends the Board repeal R305-3. The Board will continue to follow the statutory requirements regarding emergency meetings under the Open and Public Meetings Act.

It was motioned by John Newman and seconded by Ryan Dupont and UNANIMOUSLY CARRIED to repeal R305-3 (Emergency Meeting Rule). (Because this is a department-wide rule, the other environmental program boards within UDEQ, are also taking similar action.)

VI. Solid Waste Program Overview and 2007 Utah Solid Waste Plan Update

Mr. Ralph Bohn, Section Manager for the Solid Waste Program, gave a presentation entitled "Division of Solid and Hazardous Waste - Solid Waste Section." (A copy of the presentation is available in the meeting minutes.)

The presentation included an overview of the solid waste activities currently taking place in the State, and provided information on the following: staff assignments, staff activities related to landfills, waste tire program staff duties, Utah Solid Waste Plan, solid waste update, municipal waste, municipal waste disposed in Utah, municipal waste disposal, disposal rate(s), factors affecting Utah municipal disposal rate, municipal waste distribution, industrial waste, industrial waste disposed, factors affecting industrial waste disposal, construction and demolition waste, disposal at construction and demolition landfills, disposal options, Utah landfill classes, disposal method comparisons, municipal waste landfills, non-municipal waste landfills, incineration, facility ownership, transportation, transfer stations, non-disposal options, composting, compost facilities, recycling, recycled tons reported, and the future of the solid waste program.

Information in the presentation showed that Utah's disposal rate for municipal waste is higher than the national disposal rate. Board members questioned why Utah generates more municipal waste than other states. Mr. Bohn stated that construction and demolition waste is not separated from the municipal waste disposed of at most landfills. Therefore, Utah's rates will be higher. Mr. Bohn further explained that most landfills only have one cell and therefore, disposal of waste from all categories, including construction and demolition, municipal waste, and industrial waste, occurs in one cell. Mr. Bohn stated this type of disposal will soon be changing, as fees have been implemented for landfills for all the municipal waste disposed. However, if landfills can separate the construction and demolition waste and industrial waste from municipal waste, they will pay lower fees. Mr. Bohn stated that Utah also has a lower recycling rate than the national average, which also contributes to the higher disposal rates for municipal waste. Most of the municipal waste (approximately 76%) is generated by the four Wasatch Front counties.

Data provided in a graph indicated that Utah disposes of approximately 800,000 tons of industrial waste from out-of-state sources. Carlton Christensen asked where the out-of-state waste comes from. Mr. Bohn stated that most of the out-of-state waste comes from California. Mr. Bohn explained that California has very stringent standards defining what waste is considered and/or characterized as a hazardous waste. California's standards are different than the Federal standards, and as such, California waste that is brought into Utah, which was considered a hazardous waste in California, is not considered as hazardous in Utah, because the waste is not characterized as hazardous by the Federal standards. Most of the waste from California is disposed of at the East Carbon Development Corp landfill.

Craig Forster asked how waste from hospitals and universities are categorized. Mr. Bohn stated that there is one medical waste incinerator in the Utah, and a large volume of the infectious medical waste (red bag) is disposed of at that facility. Non-infectious medical waste and university waste are categorized as municipal waste. In the State of Utah, infectious waste is not required to be incinerated; it can be disposed of in a landfill.

Mr. Bohn discussed recycling and composting in Utah. Recycling in Utah is currently being done by private industry. Mr. Bohn noted that Utah has come a long way in recycling, but more effort is needed. As previously indicated, Utah is above the national average rate for waste disposed of in landfills. Board members asked what the strategy would be and how long would it take to achieve the national average rate. Mr. Bohn stated that, in order to get closer to the national average rate for waste disposal, a mandate will have to be issued requiring citizens of Utah to recycle and compost more.

Mr. Bohn also indicated that Utah's waste is different. For example, tires weigh more in Utah because a lot of citizens in Utah drive SUVs. Mr. Christensen stated that from the presentation at Board meeting in Washington County, it is very difficult, outside the Wasatch Front, to implement recycling. Mr. Bohn stated that many counties now have implemented recycling programs including Washington County, but recycling requires hard work to achieve results.

Ryan Dupont commented that the figures provided during the presentation seem extremely high, as he is familiar with Cache County numbers, which are lower. Mr. Dupont questioned who the big generators of the municipal waste are. Mr. Bohn stated there are vast differences in waste generated by counties and noted that other western states figures are as high or higher than Utah's rate. Mr. Bohn also indicated that the State Solid Waste Plan will be available online to review in the near future.

VII. Commercial/Federal Facilities

A. EnergySolutions LLC request for renewal of a site-specific treatment variance for high subcategory mercury (Informational Item Only)

Otis Willoughby informed the Board that on January 25, 2008, EnergySolutions LLC submitted a request to the Executive Secretary of the Utah Solid and Hazardous Waste Control Board for renewal of a site-specific treatment variance from the Utah Hazardous Waste Management Rules. The variance request seeks authorization to stabilize a waste stream that carries waste code D009 or U151 (High Mercury – Subcategory Inorganic). The treated waste is then proposed to be disposed at the Mixed Waste Landfill Cell. The Mixed Waste Facility proposes to receive waste streams from generators that carry the listed waste codes for High Subcategory mercury. The technology-based treatment codes for this material are either IMERC (incineration followed by recovery) or RMERC (roasting/retort) followed by recovery. The RMERC and IMERC processes generate secondary waste streams. The secondary waste streams (when greater than 260 mg/kg mercury) are required to be further stabilized to a level of .2 mg/L based on the toxicity characteristic leaching procedure (TCLP) in SW846.

The USEPA has issued a Determination of Equivalent Treatment (DET) for such High Mercury Subcategory wastes. In its determination, the USEPA concluded that for wastes that contain mercury and are radioactive, the recovery portion of RMERC or IMERC may not be appropriate and that alternative treatment processes should be pursued. EnergySolutions is proposing to stabilize the waste to a level below 0.2 mg/L, based on the TCLP method. This would satisfy the high mercury subcategory requirement. In addition, LDR compliance will be met with all other waste codes associated with the waste prior to disposal.

This variance, if granted, would be valid for the 2008 calendar year. EnergySolutions has requested similar site-specific treatment variances for High Subcategory Mercury. The Board approved those requests in January 2002, December 2003, June 2004, January 2005, January 2006 and January 2007.

This is an informational item only and requires no action by the Board. A notice for public comment was published in *The Salt Lake Tribune*, *The Deseret Morning News* and *The Tooele County Transcript Bulletin*. The comment period will run from February 5, 2008 until March 6, 2008. A public hearing on this issue will be held in the Tooele County Courthouse on February 21, 2008.

Tim Orton, EnergySolutions LLC representative, stated that the previously granted variance has expired and EnergySolutions is currently not accepting the waste. Mr. Orton further explained that although Energy Solutions generally only receives 2-3 shipments a year of this waste, they would like the variance in place so the waste can be legally received and disposed of. Over the course of the last six years, EnergySolutions has received approximately 900 cubic feet of this waste for disposal. EnergySolutions anticipates a volume of approximately 1,200 cubic feet for disposal under this proposed variance.

VIII. Chemical Demilitarization

A. TOCDF Update

Marty Gray informed the Board that TOCDF conducted a successful trial burn last month. Permit conditions dictate that once a trial burn is completed, TOCDF must immediately decrease the feed rate to 50% of what was demonstrated at the trial burn until all critical data is received and reviewed. That data has been reviewed and

TOCDF has been authorized to increase the feed rate to 75%. Once TOCDF submits a Notice of Compliance and the full trial burn report, TOCDF will be authorized to increase the feed rate to 100%.

To date, TOCDF has processed 17,500 of 35,000 projectiles. TOCDF is making great progress on these projectiles. TOCDF is not currently processing ton containers, but continues to sample ton containers. To date, 5,000 ton containers out of 6,400 ton containers have been sampled. The problems associated with the ton containers include high heels and high mercury. Out of the 5,000 ton containers sampled, 700 have high mercury, and 2,500 have high heel issues and can not be processed under the current permit.

Carlton Christensen asked if the number of ton containers not being able to be processed is higher than originally anticipated. Mr. Gray stated the number of high heel ton containers is higher than expected, but containers with high levels of mercury were anticipated.

A Notice of Violation was issued to the Deseret Chemical Depot based on inspections performed throughout the 2007 calendar year. All findings have been corrected. The NOV will be resolved through a Stipulation and Consent Order.

IX. Hazardous Waste Management

A. Frontier Scientific request for a variance from the storage requirement of R315-7-16.6 for storage of ignitable or reactive waste (Informational Item Only)

Allan Moore informed the Board that on December 27, 2007, Frontier Scientific Incorporated, a large quantity generator of hazardous waste, submitted a request to the Executive Secretary of the Utah Solid and Hazardous Waste Control Board for a variance from the Utah Hazardous Waste Management Rules. This request is a result of a compliance evaluation inspection conducted on September 12, 2007 which determined the proximity of the hazardous waste storage area to the property boundary. The variance request seeks authorization to store ignitable hazardous waste within 50 feet of the facility's property boundary. Large quantity generators are not allowed to store ignitable or reactive hazardous waste within 50 feet of their facility's property line. Frontier Scientific Inc. is seeking a variance from this specific regulatory requirement for its spent ignitable solvents because it has determined that, even though its current hazardous waste storage location does not conform to this requirement, given the physical layout of the facility, the current location presents the best storage option for ignitable waste.

This is an informational item only and requires no action by the Board. A notice for public comment was published in *The Salt Lake Tribune*, *The Deseret Morning News* and *The Herald Journal*. The comment period will run from February 8, 2008 until March 10, 2008. A public hearing on this issue will be held at the Bear River Health Department, Environmental Health Building Conference Room, located at 85 East 1800 North, North Logan, Utah, starting at 6:00 p.m. on Wednesday, March 5, 2008. After any comments are addressed, the request will be presented to the Board for consideration at the March 13, 2008 meeting.

Michael Brehm asked if this facility was close to the post office, and/or adjacent to any residential properties and what comments, if any, has the local fire department had on this issue. Scott Williams, Safety & Environmental Manager for Frontier Scientific, stated the facility is located at 195 South 700 West, Logan, Utah. Mr. Williams also stated that the local fire department is okay with the location, but would like the building upgraded to meet H2 occupancy standards. The Bear River Health Department is okay with the current location and has submitted a letter to the Executive Secretary. Mr. Williams stated that the company has purchased property in a more desired location outside the city limits and anticipates moving in five years. Also, discussions are currently taking place with the current owner to upgrade the facility.

Mr. Williams explained that Frontier Scientific is a chemical developer, manufacturer, and custom research services provider to the research and development departments at pharmaceutical, biotechnology, industrial, chemical, government, and academic sectors. Mr. Williams is in charge of the hazardous waste handling and the safety for the company and explained the location, storage structure of the buildings, and the processes they perform to develop their products.

Steve Christiansen, environmental attorney representing Frontier Scientific, stated he would like the Board to focus on the fact that although there is a 50-foot requirement in the hazardous waste regulations and their 90-day storage facility is located on the property line, this is a unique situation, as the 90-day storage facility satisfies the intent of the 50-foot rule because a seldom used railroad right-of way is adjacent to the property. There are no

structures within 50 feet of the property line and the safety concern is satisfied, because if the ignitable waste was to go up in flames, there are no structures that would be burned or harmed in any way.

Michael Brehm asked if the company anticipates controversy from the community if the Board grants the variance. Mr. Williams stated that he does not feel it will be in issue, as the community is not aware of what they manufacture and the company is very active with the LAPC. Also, coordination has taken place with Keith Larsen, Bear River Health Department.

Ryan Dupont asked if the company has gone through a risk management process, and developed a plan that was available for the Board to review. Mr. Williams indicated he has not developed such an assessment but can provide one to the Board members.

Board members asked if the railroad line adjacent to the facility is currently active. Mr. Christiansen stated that last summer, the railroad line was shut down and a pavement drive-over was placed at the facility.

Approximately every other week a train does go through with freight cars on the outside tracks of the railroad line. No railcars are ever parked on the line next to the Frontier Scientific facility, they all just pass through.

X. Other Business

A. Legislative Update

Dennis Downs provided a legislative update on the following bills:

HB 132, Waste Tire Recycling Amendments, sponsored by Neal Hendrickson. This bill reduces the reimbursement paid to waste tire recyclers and landfill owners for certain waste types of disposal and recycling. Mr. Downs reminded the Board members that because the Waste Tire Fund will soon run out, the following options were available to ensure the fund remains solvent. (1) The fee charged on the purchase of new tires could be increased; or (2) The amount that is being paid out to recyclers could be reduced. Waste tire recyclers have provided input on this issue and are supportive of the proposal to lower the reimbursements paid out to them. The main goal is to ensure this program continues and is successful. The bill is currently on the second reading calendar in the Senate.

Senate Bill 46 – Anti-Flow Control Amendments, sponsored by Senator Dan Eastman. Dennis Downs stated that there are some counties/special services districts in the State that, in order to maximize their profitability of running their own landfills, have either chosen or are proposing to require that all waste within their area of jurisdiction go to their own facility, regardless of who picks it up and/or transports/collects it. This bill amends the Solid Waste Management Act and defines terms and prohibits a public entity from requiring solid waste to be stored, recovered, or disposed of at a specific waste facility except in certain circumstances; gives a private right of action; and makes technical changes.

Mr. Downs stated the DEQ is neutral on this bill, as it is a political/policy issue for local governments, and does not impact the State's solid waste program. However, a lot of discussions have taken place by the stakeholders regarding this bill. This bill is currently on the third reading calendar and the bill has been circled (placed on hold).

Senate Bill 227 – Transportation Revisions, sponsored by Senator Sheldon Killpack. This bill was initiated by Anderson Geneva, and requires the Utah Department of Transportation (UDOT) to consider, to the maximum extent possible, utilization of recycled materials in their road building projects. Geneva wants UDOT to buy their slag and have created this bill to assist with the endeavor. Hazardous waste does not fall into this category. The Division of Environmental Response and Remediation, Superfund Program, has also provided input/proposed language on this bill. However, at this time, no official language is currently in the bill.

Mr. Downs stated the Division/Department of Environmental Quality has looked at the language in the bill to ensure that it does not create a public health problem because of improper management of hazardous waste, etc. The Attorney General's Office has reviewed the language as well.

B. Update on field trip to Dugway (May?)

Dennis Downs noted that in a previous meeting, Board members showed an interest in visiting the Dugway Proving Ground Facility. Mr. Downs suggested the Spring (May) as a possibility to tour the facility and see the

remediation activities currently taking place at the site. Dugway has been contacted and has indicated that they would be happy to provide a tour to the Board. Jeff Coombs has offered to host the Board meeting at the Tooele Health Department. Preliminary planning would include the Dugway tour in the morning and the Board meeting in the afternoon. Specific tour and meeting time logistics will be provided at an upcoming meeting. Due to afternoon commitments on that day, Board members requested, if possible, a short Board agenda.

C. Misc. Information items

Dennis Downs reminded the Board members that the Utah Solid and Hazardous Waste Act requires, by April first of each year, the Board to elect or re-elect a Chairman and Vice-Chairman for the upcoming year. Therefore, the March agenda will include this issue as a Board action item.

D. The next Board meeting will be held on March 13, 2008 at 1:00 p.m., in the UDEQ, Building #2, (Conference Room 101) in SLC

XI. Adjourn

The meeting adjourned at 2:49 p.m.